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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,122	02/04/2004	David S. Majkrzak	C136.12-0016	4277

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,122

Applicant(s)

MAJKRZAK, DAVID S.

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/5/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Isbell.

Regarding claims 1, 2 and 5, Evans discloses a knife section for a harvester:

- The knife section (6) being flat and having a top surface plane and a base (unnumbered, see Figures 4 and 5),
- the knife section (6) having a leading end (at 7 in Figure 4) spaced from the base,
- mounting holes (13) for securing the knife section (6) to a support bar (12),
- the knife section (6) having a central dividing plane and side edges at the base parallel to the central dividing plane at the base,
- the leading end (at 7) being of substantially less lateral width than a width between the side edges of the base,
- a pair of cutting edges (unnumbered, see column 4, lines 74-76), one on each side of the knife section (6) and defining a cutting line that continually moves away from the center plane of the knife section (6) from a first end of such cutting line adjacent the leading end (at 7) to second end of the cutting line at a junction of the

cutting line with a respective side edge on the respective side of the base of the knife section (6), as per claim 1;

- the leading end (7) has a surface transverse to the central plane of the knife section (6), as per claim 2.

However, Evans fails to disclose wherein the cutter bar is reciprocating, mounting holes in the base for securing the knife section to a sickle bar, as per claim 1; and

wherein each cutting edge is serrated, with outer serration points lying along the cutting line, as per claim 5.

Isbell discloses a similar knife section (49) for use on a reciprocating cutter bar (45), and mounting holes (unnumbered) in the base, as per claim 1; and

With serrations (51) lying along the cutting line (53), as per claim 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the serrations of Isbell on the device of Evans in order to provide a sharp cutting edge.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Isbell as applied to claim 1 above, and further in view of Yang et al., hereafter Yang.

The device is disclosed above. However, Evans and Isbell fail to disclose each side edge being substantially between 40% and 50% of the distance from a base end of the knife section to the leading end thereof.

Yang discloses a similar device wherein each side edge (55) is substantially between 40% and 50% of the distance from a base end (75) of the knife section (5) to the leading end (51) thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the edge of Yang on the knife of Evans and Isbell in order to create a snug spacing between knives.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans and Isbell as applied to claim 1 above, and further in view of Schneider 98,303.

The device is disclosed as applied above. Evans further discloses wherein the cutting line is part of a circle. However, the combination fails to disclose wherein the line moves away from the center plane at a substantially greater rate for each increment of distance in a direction from the leading end to the base along the cutting plane adjacent to the base than at the leading edge.

Schneider discloses a similar knife (A) with a cutting line that moves away from the center plane at a substantially greater rate for each increment of distance in a direction from the leading end to the base along the cutting plane adjacent to the base than at the leading edge.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the concavity of Schneider on the knife of Evans and Isbell in order to grass and dirt from sliding into the cutting device.

5. Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Isbell and Schnieder.

Regarding claims 6-8, Evans discloses a knife section (6) including a leading end (at 7 in Figure 4),

a base end with side edges (unnumbered),

a pair of smoothly curved concave cutting edge lines (unnumbered) extending from the leading end (at 7) to a side edge without reducing the distance from the cutting edge line to a central plane perpendicular to the knife section (6), as per claim 6; and

each cutting line lying along a smoothly shaped edge of the knife sections (6), as per claim 7.

However, Evans fails to disclose a reciprocating cutter bar; and

The cutting line positioned to curve laterally of the center plane a substantially less incremental distance for each increment of distance toward the base along the center plane, adjacent the leading end than adjacent the base, as per claim 6; and

Each cutting edge line lying along points of cutting edge serrations, as per claim 8.

Isbell discloses a similar knife section (49) including a reciprocating cutter bar (45), as per claim 6; and

each cutting edge lines (53) lying along points of serrations (51), as per claim 8.

Schneider discloses a similar knife (A) including a cutting line positioned to curve laterally of the center plane a substantially less incremental distance for each increment of distance toward the base along the center plane, adjacent the leading end than adjacent the base, as per claim 6.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the serrations of Isbell on the device of Evans in order to provide a sharp cutting edge.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the concavity of Schneider on the knife of Evans in order to grass and dirt from sliding into the cutting device.

6. Regarding claims 9-13, Evans discloses a double edge knife section for a reciprocating sickle, including:

a leading end (at 7 Figure 4) and a base end (unnumbered),

a pair of smoothly curved concave cutting edge lines (unnumbered) extending from the leading end (at 7) to a respective side edge of the base, the distance from each cutting edge line to a bisecting central plane perpendicular to the knife section plane expanding in a concave curve continually from adjacent the leading end (at 7) to the respective base side edge, as per claim 9;

each cutting edge line lies along a smoothly sharpened edge of the double edge knife section (6), as per claim 10; and

the double edge knife section (6) being symmetrical, as per claim 12; and

the side edges tapering from the cutting edge line upwardly toward the central plane (see Figure 5), as per claim 13.

However, Evans fails to disclose a reciprocating cutter bar, and

The cutting line expanding at a greater rate at points on the cutting line as the cutting line is spaced farther from the leading end, as per claim 9; and

The cutting edge line lying along points of serrations, as per claim 11.

Isbell discloses a similar double edge knife section (49) for a rotating cutter bar (45), as per claim 9; and

The cutting edge line (53) lying on points of serrations (51), as per claim 11.

Schneider discloses a similar knife (A) including a cutting line expanding at a greater rate at points on the cutting line as the cutting line is spaced farther from the leading end, as per claim 9.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the serrations of Isbell on the device of Evans in order to provide a sham cutting edge.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the concavity of Schneider on the knife of Evans in order to grass and dirt from sliding into the cutting device.

Response to Arguments

7. Regarding the applicant's arguments that it would not be obvious to combine the stationary knife of Evans with the reciprocating knife of Isbell, this combination is simply taking the shape of a stationary knife and making it a reciprocating knife as taught by Isbell that it is desirable to do so.

In response to applicant's argument based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to

solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

Applicant's arguments with respect to the amendments made to claims 4, 6 and 9 have been considered but are moot in view of the new ground(s) of rejection. See the new rejection including the Schnieder reference.

In response to applicant's argument that that the amendment made to the end of claim 1 is sufficient to read over the prior art, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

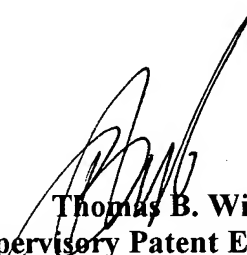
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3671

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
October 3, 2005